

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

LILA HOBBS, an Alaska resident,  
Plaintiff,

v.

THE CORPORATION OF GONZAGA  
UNIVERSITY, a Washington non-  
profit corporation,  
Defendant.

NO. CV-10-0292-EFS

**ORDER GRANTING GONZAGA'S  
RECONSIDERATION MOTION**

A hearing occurred in the above-captioned matter on September 19, 2011. Plaintiff Lila Hobbs was represented by Erika Nusser, who appeared telephonically. Christopher Kerley appeared on Gonzaga University's ("Gonzaga") behalf. Before the Court was Gonzaga's Motion for Reconsideration of Revision of Order Requiring Gonzaga to Answer Request for Production (RFP) No. 11 in Part. ECF No. [56](#). After reviewing the submitted materials and relevant authority and hearing from counsel, the Court grants Gonzaga's reconsideration motion.

The instant motion and RFP No. 11 requires the Court to balance Plaintiff's right under Federal Rule of Civil Procedure 26 to seek information discoverable to her claims and Gonzaga's defenses with non-parties' privacy rights. Plaintiff asserts that Gonzaga's handling of her sexual-assault report was insensitive, thereby increasing her emotional pain through re-victimization. To support her claim and to

1 contest Gonzaga's assertion that it properly handled sexual-assault  
2 reports, Plaintiff desires to learn about Gonzaga's handling of other  
3 sexual-assault reports<sup>1</sup>: this would result in Gonzaga disclosing the  
4 names of the non-party accused and accusers, which is very sensitive  
5 information.

6 The parties agree that there are ninety-three reports of sexual  
7 assault by a male student against a female student since January 1, 2000,  
8 and that only nine of the reporting female students elected to continue  
9 the sexual-assault-reporting process through hearing. To assist in  
10 obtaining the information requested by RFP No. 11, Plaintiff proposed  
11 that the Court order Gonzaga to send to these ninety-three reporting  
12 female students a letter, which would advise them of the current lawsuit,  
13 allow them to agree to the disclosure of Gonzaga's records about their  
14 sexual-assault report to Plaintiff's counsel, and provide them with the  
15 opportunity to contact counsel if they desired. The Court is concerned  
16 about the impact that this letter may have on the reporting Gonzaga  
17 female students; some of these women may not have shared their sexual-  
18 assault experience with their loved ones, who may question why they  
19 received a letter from Gonzaga, thereby possibly causing these women  
20 additional pain and discomfort.

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22 <sup>1</sup> RFP No. 11 states:

23 Please produce ALL databases, in a format compatible with  
24 Microsoft Office applications, such as Excel, in which GONZAGA  
UNIVERSITY compiles data REFERRING OR RELATING TO each of the  
following:

- 25 a) Complaints or investigations of sexual misconduct;  
26 b) Complaints or investigations of sexual assault; and  
c) Student Conduct Hearings or Disciplinary Hearings.

1 Accordingly, after balancing these concerns, the Court requires the  
2 following discovery to occur before the Court will consider requiring  
3 a further invasion of the lives of these non-party women:

- 4 1) no later than October 7, 2011, Gonzaga must produce redacted  
5 versions of all materials relating to the nine sexual-assault  
6 reports that resulted in a hearing being requested; and
- 7 2) Plaintiff, at her option, may choose to depose Stella Kent and  
8 Teresa Schinzel, who were involved with Gonzaga's Sexual  
9 Assault and Response Center, and who reportedly expressed  
10 dissatisfaction with Gonzaga's handling of sexual-assault  
11 reports.<sup>2</sup>

12 Thus, the Court's July 27, 2011 Order, ECF No. [55](#), is modified and  
13 discovery in regards to RFP No. 11 is limited as described. If after  
14 Plaintiff reviews this discovery and deposes these individuals, she  
15 believes that further information is necessary to present her case, she  
16 may file a properly-supported motion seeking such discovery, justifying  
17 the intrusion on the non-parties' lives. In particular, depending on the  
18 substance of the depositions, the Court may consider sending a letter to  
19 at least the two students who withdrew their requests for a hearing.

20 For these reasons, **IT IS HEREBY ORDERED:**

21 1. Gonzaga's Motion for Reconsideration of Revision of Order  
22 Requiring Gonzaga to Answer Request for Production No. 11 in Part, **ECF**  
23 **No. [56](#), is GRANTED.**

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26 <sup>2</sup> During these depositions, neither the accusers or accuseds are to  
be referenced by name.

**DATED** this 27<sup>th</sup> day of September 2011.

S/ Edward F. Shea  
EDWARD F. SHEA  
United States District Judge